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Salomons.
1756.

36.
396.

THE CASE

OF

MR. SALOMONS,

Alderman Elect

OF THE

WARD OF ALDGATE.

LETTERS OF BRITANNICUS,

REPRINTED FROM THE MORNING CHRONICLE.

"PRAY YOU, GIVE ME MY GOWN."

Merry Wives of Windsor.—Act III. sc. 1.

LONDON:

PELHAM RICHARDSON, 23, CORNHILL.

1836.

SIXPENCE.

396.

MARCHANT, PRINTER, INGRAM COURT, FENCHURCH STREET.

THE CASE

OF

MR. SALOMONS.

LETTER I.

To the Editor of the Morning Chronicle.

December 8, 1835.

SIR,

THE assembled wisdom of the Court of Aldermen of London has, it seems, not only refused to swear in Mr. Salomons to the office of Alderman, to which he had been duly elected, but even refused to allow him a week's time to consider "a question which, when he entered the Court, he had no idea would be put to him, and which he was altogether unprepared to meet on the sudden." The Court was fortified by the opinion—then for the first time produced—of its six lawyers; but it would not allow any time for the Alderman elect to consult his professional advisers. "*Is it so nominated in the Bond?*"—say these Christian, magisterial Shylocks.

It is related of the late Mr. Elliston, that some years ago, when the minor theatres were assuming considerable airs of consequence, he, as the then proprietor of one of the majors, exclaimed to Mr. Winston—"By heavens! Winston, the minors are going it preciously." This minor "upper house" in the city appears to have conceived the vain ambition of emulating the major "upper house" in Westminster, in the hopeless attempt of setting public opinion at defiance; and overbearing, by resistance as senseless as impotent, the overwhelming spirit of the times. Unhappy emulators of Mrs. Partington!—they seem insensible of the condition in which they are placed, and all unknowing of what is going on around them. It is well known to those who have descended deep shafts, such as those of coal-pits, that persons descending for the first time, as long as they are within the enjoyment of light, can perceive their progress downwards; but as soon as they have descended below the reach of light, they are perfectly unconscious of motion, and although their descent has been uninterrupted, it is not until their arrival at the bottom of the shaft that they are aware of the extent to which they have been lowered. It seems to be pretty much the same with the "upper-houses," both the major and minor; they have long been going down in public opinion, and are now descended so far below the penetration of the light of the age, that they are unconscious of their progressive descent, and it will not be until *their arrival at the bottom* shall bump them into the

conviction, that they will be aware that they have reached the lowest depth. But to return to the Court of Aldermen.

The whole scene is a fine specimen of a Corporation farce. Mr. Alderman Brown, who was the principal actor, and several of the Aldermen who supported him, seem to have taken a lesson out of the "Parliamentary Logic" of single-speech Hamilton (p. 42). "When you attack any man, or body of men, endeavour always to find something to commend: it not only reconciles every indifferent person, but even the very persons attacked, and gives an air of candour and an additional weight to what you say against them." The Alderman elect was, therefore, characterized as "a very excellent person"—as "a gentleman for whom all entertained the highest possible respect, and whose conduct all individually admired"—as a person "in every respect so excellent," "that nothing could give greater pleasure, or confer greater honour, than the fact of being associated with him." But still he was not to be admitted: that was predetermined.

It is not a little singular that the Alderman who took the lead in this proposed scheme of exclusion is notoriously a Dissenter—one who ought to be under the sense of active gratitude for his recent emancipation from civil disabilities on account of religious opinions. His seconder was similarly circumstanced: he was, as I have been informed, a Quaker. What he is now, I do not presume to say, or to surmise.

But Mr. Alderman Brown is to be commiserated,

his lacerated feelings are truly to be pitied; " he had a painful duty to perform; but still it was a duty, and he must not shrink from performing it." His seconder, Mr. Alderman Thomas Wood, also " felt it incumbent on him to perform his duty, however disagreeable it might be!" Here, again, these " worshipful" personages seem to have taken another lesson out of that most disingenuous book, before alluded to, Mr. Hamilton's " Parliamentary Logic"—(a book which, if properly designated, ought to have been entitled, " The Art of Political Deception," and the mischievous tendency of which has been ably and fully exposed by Mr. Bentham in his Book of Fallacies, page 16, *et seq.)* Mr. Hamilton recommends,—" Endeavour to introduce a moral sentiment, where it is least expected." Pope observes, " that virtue, thus put upon us by surprise, has a good effect" (page 56). This exhibition of duty must indeed have taken all parties " by surprise." If it was the " *duty* " of the Court so to act in the case of Mr. Salomons, Alderman elect, it was equally the " *duty* " of the Court in the case of Mr. Harmer, when Alderman elect; but it was openly avowed that it was not done in his case; nor was it done in the only two other cases which have subsequently occurred—those of Mr. Alderman Johnson and Mr. Alderman Pirie. " Call ye this even-handed justice?" That this stratagem may have taken the parties " by surprise," may be true; whether it will *ultimately* " have a good effect" remains to be seen.

But then the Court had the opinion of counsel. A few observations are called for on this topic. Mr. Salomons was elected on the 18th of November last. At all the civic entertainments at the Mansion-house, and elsewhere, from that day down to the 3d of December (on which day he presented himself to be sworn into office, introduced by a body of his electors), he was openly and publicly addressed on those occasions, even by those who eventually opposed his admission into office, as " Mr. Alderman Elect." When on the appointed day he presents himself for installation into office, he is met by the objection, " Oh, we have the opinion of six eminent lawyers, that although *eligible*, you are not *confirmable*, unless a particular declaration has been signed by you." Now, in the first place, look at the dates. No man, woman, or child in London can doubt that, from the first, the parties who have eventually opposed openly the admission to office of the Alderman Elect, did from the first, secretly and combinedly, intend to oppose, by every means in their power, the accession of Mr. Salomons to the office of Alderman. It cannot be credited, therefore, that the earliest means were not taken to obtain the opinion of counsel on that subject; but it does so happen (*per infortunium*, as the lawyers say) that the opinion of the Counsel, whose advice was to regulate the conduct of the Court, was not obtained (as it would *seem* from the published date of the opinion) until the 2d of December, the day before that appointed for Mr. Salomons's being sworn into

office. *Credat Judæus!* How convenient for the Court; how unfortunate for the Alderman Elect. They know everything: he knew nothing, except the unimportant fact (unimportant to all but those who had elected him; and himself who had been elected), that he had been elected, and that he had received no intimation whatever, that his admission to office was to be opposed.

Mr. Alderman Brown and Mr. Alderman Thomas Wood, the mover and seconder of Mr. Salomons's exclusion, are both lawyers; and no persons can know better than they do, the advantage to be gained by this *date* of the opinion. If the opinion had *borne* an earlier date, nothing can be more clear than that, in common fairness to any person ordinarily worthy to be elected an Alderman, (but *à fortiori* to a person "so excellent"), it would have been but common candour to have intimated that the Court had taken the opinion of Counsel as to his admissibility to the office of Alderman; and that they gave him such intimation in order to enable him to take legal advice as to his qualification for office; and also to state to him, for his complete information and preparation on the subject, the grounds on which they doubted his qualification. No such thing was done. But even if that was not done, it would seem that the most distant act of courtesy would have been to have sent to Mr. Salomons, at the earliest possible moment, a copy of the opinion, for the purpose of apprising him of the fact of the intended opposition, and of enabling him to meet, if possibly

he could have met, the threatened opposition. Nothing like this spirit of fair dealing is exhibited towards this " excellent person," whom " it would have been a pleasure and an honour to have been associated with in office!"

But the opinion itself, with reverence be it spoken, is as singular, as are the collateral circumstances attending it. In a case so important as this, all that can be obtained from the learned gentlemen is, " We are of opinion"—" We further think;" no reason assigned, nothing stated by them, either as to the facts submitted to them, or as to the grounds of the conclusions drawn by them. The opinion, therefore, is, in itself, unsatisfactory on these grounds; but, even taking the opinion to have been *omni exceptione major*, the way in which it was produced against the elected Alderman afforded an abundant reason for allowing time to him for consulting his legal advisers. This, however, was refused.

Mr. Alderman Thomas Wood seemed to have taken a lesson from his *mover*, Mr. Alderman Brown, whose motion he seconded, out of Mr. Hamilton's book before referred to. " Throw in some local and momentary circumstances, if you can; it gives a natural air to what you say." So, when Mr. Salomons, being thus taken by surprise as to his fitness to be an Alderman, asks for a short time for consultation with his legal advisers, it is refused to him, on the suggestion of Mr. Alderman Thomas Wood, that " it was not a new question to Mr. Salomons, as was evident from what had been done in order to qualify that gentleman for the

office of Sheriff." Now this, unfortunately for Mr. Wood, was proving too much, and therefore proving nothing for him; or, if proving anything, establishing the argument against him. It proved that Mr. Salomons was legally qualified to serve, and had actually served, the office of Sheriff of London, which is incipient to the office of Lord Mayor of London; and was, therefore, inferentially qualified to serve the office of Alderman, which is the completive qualification (subject, of course, to actual election) for the office of Lord Mayor.

The legal arguments on this subject are quite sufficient to fill another letter. If you shall think this communication worthy of insertion in your useful and patriotic paper, I shall do my best to add, in a second letter, my notions of the legal view of this case.

Before I conclude, I beg to say that I know nothing of Mr. Salomons, nor does he of me. I write this entirely on public principles.

BRITANNICUS.

December 5.

LETTER II.

To the Editor of the Morning Chronicle.

December 10, 1835.

SIR,

My former letter concluded with some observations on Mr. Alderman Thomas Wood's allusion to "what" (he alleged) "had been done to *qualify* Mr. Salomons for the office of Sheriff." The observations I then made were general, those which I am about to make will be particular. I then endeavoured to show, that the insidious attempt "to throw in some local and momentary circumstances," in order to prejudice the question, failed in its object on general principles; I will now prove that it fails in specific reference to this particular case. I deny, wholly and absolutely, that the statute to which Mr. Alderman Thomas Wood *alluded* (but to which, by way of caution, he did not *refer*), did, in fact, "*qualify*," or was *intended to qualify*, Mr. Salomons for the office of Sheriff. The disqualifying statute, the 9th Geo. IV., c. 17, required, that persons chosen to the office of "Mayor, Alderman, Recorder, Bailiff, Town-clerk, or Common Councilman, or any office of magistracy, should, within one calendar month next before, or upon his admission into any of the aforesaid offices, make and subscribe the declaration therein mentioned." *Now*

the office of sheriff was not included in the enumerated offices, and therefore was not comprehended within its requisitions. It did so happen, however, that Mr. Salomons was elected Sheriff of London; and it being well understood that the Tory party would have objected to his eligibility, or at least to his qualification to be sworn into office, on account of their construction of this statute, it was thought expedient—I presume to say, by those who had not *thought* at all on the subject—that an Act of Parliament, in the nature of an act of dispensation, should be passed, to enable Mr. Salomons to assume the office of Sheriff. Needless as, in my humble judgment, was the passing of any Act whatever, no Act so foolish as that supposed by Mr. Alderman Thomas Wood was passed, or even proposed. The Act which did pass, the 5th and 6th Wm. IV., c. 28. merely declared that sheriffs were not named in the Act of the 9th Geo. IV., c. 17, and were therefore not affected thereby. This is the plain English translation of the Act. Now to call this an Act of Parliament specially enacted to enable Mr. Salomons to serve the office of Sheriff, is, if I understand the honest interpretation of language, a gross misinterpretation of it. The statute itself is an absolute superfluity. Put it into plain English (or what the late Mr. Cobbett would have called *honest English*), its enactment amounts to nothing more than this—the office of Sheriff not being named in the disqualifying statute, is not included in it. The friends of Mr. Salomons, if they urged or solicited the passing of this statute (of which I am

wholly uninformed), were, in my opinion, very wrongly advised: his title required no such legislative recognition, and to apply for it seemed to call into doubt an unquestionable claim. The doing of this has excited the doubt: it reminds one of the proverb—"Some things are so plain that they could never be doubted, if a doubt were not suggested." Or, in more practicable terms, I would say, that want of energy in resistance gives potency to opposition, which, but for that want of energy, would have been powerless: according to the well-known epigram—

> "Tender handed touch a nettle,
> And it stings you for your pains;
> Squeeze it, like a man of mettle,
> And it soft as silk remains."

If Mr. Salomons and his friends had met this threatened attack, in the case of his shrievalty, without the compliment of counteraction, it would have been a mere *brutum fulmen, sine ictu.* But was it fair in Mr. Alderman Thomas Wood to say, that this Act *qualified* Mr. Salomons for office?

Now, with respect to the disqualifying Act, the 9th Geo. IV., c. 17, nothing could be more unfair in principle, or more disingenuous in practice, than to apply it to the case of a Jew. Mr. Alderman Brown, the mover, and Mr. Alderman Thomas Wood, the seconder, of the exclusive resolution, both of them lawyers, both of them (I believe) Dissenters, knew perfectly well that this statute was passed *alio intuitu.* They knew, right well, that the exceptive provisions of that statute were di-

rected—not against Jews, but against Dissenters, such as they were. The title of the Act, and the titles of the several Acts recited in its preamble, show incontestibly that its requisitions were directed, not against Jews, but against Christian* non-conformists. The law, as it formerly stood, did most absurdly make "the receiving of the sacrament of the Lord's Supper," according to the rites and ceremonies of the Church of England, a qualification for certain offices and employments. The absurdity of this est was at length seen through, and then an Act of Parliament was passed requiring persons elected to such offices to declare, "upon the true faith of a Christian," that they "would never exercise any power, authority, or influence, which they might possess by virtue of the

* *Some* of the Aldermen of the city of London are Dissenters, who hold that *occasional conformity* is no sin—upon the principle, I presume, *recte, si possis; si non, quocunque modo*—for the ease of their consciences this Statute was not necessary; they possessed an internal *non obstante*, which sufficiently quieted all scruples. Great clamour was raised some years ago against a Popish lady in Yorkshire, the patroness of a church in that county, who, in order to qualify herself to present a friend to the living, renounced the Popish religion, and conformed to the Church of England, took the test, and, when all was accomplished, recanted her reformation, and returned to the Church of Rome. All hands will be held up against this perfidy; but, let me ask, is this transaction to serve a friend worse than, or even so bad as, an Alderman, for the sake of office, conforming "occasionally" to ceremonies—no, not to ceremonies, to *ostensible and public acts of religion*, which he professes to believe *abominations?* "Speak, ye who know."

office of ——, to injure or weaken the Protestant Church, as it is by law established in England, or to disturb the said Church, or the bishops or clergy of the said Church, in the possession of any rights or privileges to which such Church, or the said bishops and clergy, were or might be by law entitled." Now, in the name of common sense, let it be inquired, what possible relation has this provision to the case of the Jews? That Papists—that Dissenters from the Church of England (especially those whose accommodating consciences hold "occasional conformity," for the sake of gain, to be no sin)—might seek to subvert that Church, was not an impossible event; but that the Jews should meditate such an attempt, was about as probable as that the Emperor of China should lay claim to the crown of England in right of hereditary descent.

The truest mode of interpreting, and consequently of applying, any law, is to regard the object of its enactment. Professor Wooddesson says, in his *Elements of Jurisprudence*, p. 36, "It is material to inquire, how an ordinance was understood at the time of passing it: for we are often told in the writings of Lord Coke, that *Contemporanea expositio est fortissima in lege.*" (2 Inst. 136; 4 Inst. 138.) "But (he adds) the principal rule of interpretation is the reason* of the law.

* "Reason, and that alone," says Jeremy Bentham,—"*magnum et venerabile nomen*—is the proper anchor for a law, and for everything that goes by the name of law."—*Book of Fallacies*, p. 102.

Herein we must be careful to observe comprehensive, not partial, principles of equity. * * * We must weigh the evil to be redressed, the remedy and relief to be promoted, and the consequences of determination on one side or the other, as they may affect individuals, or the public; for the end of civil laws, in general, being the welfare of the community, the same must be had in view in establishing their construction. *Omnes leges ad commodum Reipublicæ referri oportet, et eas* EX UTILITATE COMMUNI, NON EX SCRIPTIONE, *quæ in literis est, interpretari.*"—Cic. de inv. L. I, c. 38. Apply this rule of construction, and then say, whether the Jews are any more within the purview of this statute than the Great Mogul is.

Nor is this rule of interpretation, considered historically, quite so unknown to English law, actually established by statute, as it appears to be to their Worships of the Court of Aldermen. And to illustrate this point, I shall refer to a matter much more serious than the chimera of supposing that the Jews meditate the subversion of the Church of England. There was a time when the succession to the throne was in actual danger, and particularly, as it was believed, from Papists. As a protection against this danger, the oath of abjuration was framed, which (in order to bind the consciences of Papists most firmly) concluded with the words, "*upon the true faith of a Christian.*" It was subsequently discovered, that these words were exclusive of the Jews, who were not within the mischiefs contemplated by the law, and therefore ought not to be excluded from

its benefit. Accordingly an Act was passed, the 13th Geo. II. cap. 7, of which the third section is in the following words:—

"And whereas the following words are contained in the latter part of the oath of abjuration, *videlicet, (upon the true faith of a Christian.)* And whereas the people professing the Jewish religion may thereby be prevented from receiving the benefit of this Act, Be it further enacted, by the authority aforesaid, that whenever any person professing the Jewish religion shall present himself to take the said oath of abjuration in pursuance of this Act, the said words *(upon the true faith of a Christian)* shall be omitted out of the said oath, in administering the same to such person, and the taking and subscribing the said oath by such person, professing the Jewish religion, without the words aforesaid, and the other oaths appointed by the said (recited) Act, *shall be deemed a sufficient taking of the said oaths.*"

So that here the Legislature of this kingdom felt no difficulty in relieving Jews from swearing (or declaring, for now those two acts are equivalent) "upon the true faith of a Christian," even in matters involving the succession to the throne; but the Court of Aldermen of London are so conscience-bound, that they cannot dispense with those words in so vital a matter as that of wearing a scarlet gown, and presiding occasionally at the Justice-room at Guildhall.

Is it not an "untoward circumstance," so far as regards this case, that the two principal opposers—

nay, rather say *panegyrists* of Mr. Salomons, were lawyers? They might have exclaimed over their intended victim, as *Macbeth* did over his—"*He's here in double trust:*" first, as we are his appointed Judges; secondly, as lawyers who know, or ought to know, the law. Did this worshipful Court, who have

> "From meaner form been *bench'd and rear'd to worship*"—
> *Winter's Tale*, Act I. Scene 2.

did this worshipful Court know of this legislative dispensation, in favour of Jews, with the words—"Upon the true faith of a Christian?" If they did, were they not aware of the rule of legal interpretation, that statutes *in pari materia*, usually receive a corresponding construction? I do not now take upon myself to state, what may, or may not, ultimately, be the true construction of the statute in question; but I do say this, was it not an occasion on which the plainest, the clearest, the most obvious principles of common justice required, that Mr. Salomons should have been allowed the opportunity of consulting his legal advisers on the subject?

It apears, then, that there was no repugnance on the part of the national legislature to accept the oath (now converted into a declaration) of a Jew unfettered by the words "on the true faith of a Christian." And it does seem rather unintelligible why the City of London legislators should be more scrupulous on this subject, seeing that by an act of Common Council, passed on the 10th of December, 1830, it is enacted, that "from and after the

1st day of January then next ensuing, it shall be lawful for any person, born within this kingdom, and for any natural born subject whatsoever, *not professing the Christian religion*, but in other respects duly qualified, to be admitted to the freedom of the City of London, upon taking the oath of a freeman of the said city, *according to the forms of his own religion, and in such manner as is binding on his own conscience.*" Now this act was passed by the Court of Common Council, including, of course, the Aldermen, and subsequently ratified by the Court of Aldermen, for the express purpose of relieving the Jews.

I shall allude to one more circumstance only attending this affair. Mr. Salomons repeatedly and urgently appealed to the Court for an adjournment of the question. Mr. Alderman Farebrother said, that " if the delay were required in order that litigation might be resorted to, he could not think of the delay of a moment." Why, in the name of magisterial simplicity ! for what earthly purpose could delay be asked for, in order to consult his legal advisers, except to ascertain whether he could by law enforce his claim ? This seems to be treating the Hebrew Alderman elect pretty much after the manner in which *Shylock* is fabled to have been treated. *Portia* conceded the penalty of the bond ; but annexed a condition to it which rendered the concession absolutely unavailing. So the Court of Aldermen would have granted time, provided no practical or effectual use were made of the indulgence. This seems to be the perfection of

corporate wisdom. If the Court of Aldermen would allow me to suggest a motto to be inscribed over their Council Chamber, I would recommend the well-known maxim, *in nihil sapiendo jucundissima vita.*

What course Mr. Salomons intends to pursue I know not. I observe that he has protested, and I think rightly, against the assumption of the Court of Aldermen, that he is not the Alderman of the ward, whose Alderman he has been elected. A writ of *mandamus* may, perhaps, bring the Court of Aldermen to what the late Lord Ellenborough used to call " an amended understanding." This process is a most salutary *alterative*, in cases where the constitution of a Corporation is rotten, and its political digestion out of order. The body corporate of the City of London is occasionally subject to this municipal dyspepsia, and a few doses of this alterative, exhibited, as the doctors say, *pro re natâ*, may produce a most beneficial effect.

BRITANNICUS.

December 9, 1835.